
ARMY NATIONAL GUARD RECORD OF PROCEEDINGS UNDER SECTION 130.15 OF THE NEW YORK STATE MILITARY LAW

WARNING: YOU HAVE THE RIGHT TO BE PRESENT AT NON-JUDICIAL PUNISHMENT PROCEEDINGS UNDER MILITARY LAW SECTION 130.15. HOWEVER, IF YOU FAIL TO APPEAR AT SUCH PROCEEDINGS, YOU WILL BE DEEMED TO HAVE WAIVED YOUR RIGHT TO BE PRESENT AND THE PROCEEDING WILL TAKE PLACE WITHOUT YOU.

Name	SSN / DODI	Unit	Grade
SFC Tangorre, Brian	[REDACTED]	Ops Co., HHBN, 42nd ID	E7

PART 1 - Initial Action

1. I am considering whether you should be punished under section 130.15 of the New York State Military Law for the following misconduct: 2/

See Continuation Sheet

Charge 1: 130.89 - Cruelty and Maltreatment

Charge 2: 130.88 - Failure to Obey Order or Regulations

Charge 3: 130.115 - General Section

Charge 4: 130.115 - General Section B/W

2. You have several rights under this Section 130.15 procedure. First, I want you to understand that I have not yet made a decision whether or not you will be punished, and I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense. You may ordinarily have a public hearing before me. You may bring a person to speak in your behalf. You may present witnesses and other evidence to show why you should not be punished at all (matters in defense) or why punishment should be very light (matters in extenuation and mitigation). I shall consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. You are not required to make any statements at all, but if you do, they may be used against you in this Section 130.15 Proceeding. You have the right to consult with counsel, you may elect to consult with military counsel or you may elect to consult with civilian counsel at your own expense.

Trial Defense Services can be reached at phone number: 703-607-9297, or email: ng.ncr.ngb-amg.mbx.tds-lts@mail.mil

You now have 15 days to decide what you want to do. s/

30 November 2022

Date

Name, Grade & Organization of Commander

Kevin D. Vilardo, O-4, HHBN, 42nd ID


Signature

3. In the Section 130.15 proceedings:

- a. An open hearing is is not requested
- b. A person to speak on my behalf will will not accompany me. Scott Iseman
- c. Matters in defense and/or extenuation: are not presented are attached hereto will be presented in person.

4/


SFC Tangorre, Brian

Dated: 17JAN2023

4. I have considered all matters presented in defense and/or extenuation and mitigation.

The following punishment(s) (s) (is) (is not) imposed: s/s

NO PUNISHMENT CAN BE DECIDED (written or typed) UNTIL AFTER RESPONSE PERIOD ENDS

SFC Brian Tangorre, reduction to the rank of SSG (E-6)

5. You are advised of your right to appeal this punishment to Major General Natali, MNHP, the next superior authority. An appeal made more than 15 days after the punishment was imposed may, in the absence of unusual circumstances, be considered as not being made within a reasonable time and be rejected. The next senior authority will decide whether an appeal is timely or not.

Date

Name, Grade & Organization of Commander

Signature

2/4/23

Bryon L. Linnehan, O-5, HHBN, 42nd ID


Signature

PART II- APPELLATE ACTION

6.

I do not appeal

I appeal and do not submit matters for consideration by the next superior authority.

I appeal and submit the matter attached hereto for consideration by the next superior authority.
7/

Date	Name & Grade of Soldier	Signature
5MAR2023	SFC Tangorre, Brian	

7. This appeal, controlled by DMNA 27-2, was reviewed and it is my opinion: 8/

Date	Name & Grade of Judge Advocate	Signature
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8. After consideration of all matters presented on appeal, the appeal is: 4/

denied.

granted in part as follows:

Date	Name, Grade & Org of Commander	Signature
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PART III- ATTACHMENTS AND/OR COMMENTS 9/10/

Begin list of documentation, witnesses presented, identification of attachments, etc., here (attach additional sheets if necessary):

See attached exhibits, as referenced in appeal.

DMNA 1057 Continuation sheet

SFC Tangorre, Brian		Ops. Co., HHBN, 42 nd ID.
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Charge I: 130.89 - Cruelty and Maltreatment

Specification 1:

In that you, did, at or near O'Brien Readiness Training Center, Fort Drum, New York, on or about 18 May 2022, maltreat [VICTIM] a person subject to your orders, by sexually harassing and coercing [VICTIM] to engage in a sexual act with you. This is in violation of NYSML 130.89.

Specification 2:

In that you, did, at or near Troy, New York, between on or about 1 December 2020 and 30 June 2022, maltreat [NON PARTY] a person subject to your orders, by sexually harassing and coercing [NON PARTY] to engage in a sexual act with you. This is in violation of NYSML 130.89.

Charge II: 130.88 - Failure to Obey Order or Regulations

Specification 1:

In that you, did, at or near, O'Brien Readiness Training Center, Fort Drum, New York, between on or about 1 February 2022 and 18 May 2022, fail to obey a lawful general order, to wit: TAG Sexual Harassment Policy dtd: 1 June 2016 and TAG Prevention of Sexual Harassment Policy dtd: 1 March 2022, by wrongfully sexually harassing and coercing [VICTIM] to engage in a sexual act with you. This is in violation of NYSML 130.88.

Specification 2:

In that you, did, at or near, Troy, New York, between on or about 1 December 2020 and 20 June 2022, fail to obey a lawful general order, to wit: TAG Sexual Harassment Policy dtd: 1 June 2016 and TAG Prevention of Sexual Harassment Policy dtd: 1 March 2022, by sexually harassing and coercing [NON PARTY] to engage in a sexual act with you. This is in violation of NYSML 130.88.

Charge III: 130.115 - General Section

Specification I:

In that you, did, at or near Troy, New York, between on or about 1 December 2020 and 30 June 2022, on numerous occasions cause [NON PARTY] to touch your penis with her hand, with the intent to gratify the sexual desires of yourself, by placing [NON PARTY] in fear. This conduct is prejudicial to good order and discipline in the organized militia. This is in violation of NYSML 130.115.

DMNA 1057 Continuation Sheet

SFC Tangorre, Brian	XXX-XX-6212	OPS, HHBN, 42 nd ID	E-7
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Specification II:

In that you, did, at or near Troy, New York, between on or about 1 December 2020 and 30 June 2022, on numerous occasions cause [NON PARTY] to touch your penis with her mouth, with the intent to gratify the sexual desires of yourself, by placing [NON PARTY] in fear. This conduct is prejudicial to good order and discipline in the organized militia. This is in violation of NYSML 130.115

Specification III:

In that you, did, at or near Troy, New York, between on or about 1 December 2020 and 30 June 2022, commit a sexual act upon [NON PARTY] by penetrating her vulva with your penis, with an intent to gratify the sexual desire of yourself. This conduct is prejudicial to good order and discipline in the organized militia. This is in violation of NYSML 130.115

-----End of Charges-----

Instructions for use of Army National Guard Record of Proceedings under Section 130.15 of the New York State Military Law

1/ See Appendix 15 DMNA Reg. 27-2 for further guidance.

2/ Insert a concise statement of each offense in terms stating violation of the State Military Code. If additional space is needed, use Part III and/or continuation sheets as described in Instruction 9/ below.

3/ Give the individual an information copy of this form. Keep all other copies together until Item 9 is completed. Under ordinary circumstances, 72 hours is a reasonable time within which to require the individual to make a decision.

4/ Place a check mark on appropriate line.

5/ If, after presentation of matters in defense and in extenuation and mitigation, the commander decides not to impose Section 130.15 proceedings, the individual should be so notified and all copies of this record destroyed.

6/ Strike out inapplicable word(s). The amount of any fine or detention of pay should be expressed in whole dollar amounts. Odd dollar amounts should be rounded off to the next lower whole dollar amount. If punishment is suspended, the following statement should be added after it: *To be automatically remitted if not vacated before (date)*. If punishment includes a written admonition or reprimand, it will be attached to this form and listed in Part III. A fine is collected by a check made payable to "Division of Military and Naval Affairs," with a note on the check "State Military Fund (20127)." The check is then mailed to: Director of Management and Budget, NYARNG MNB, DMNA, 330 Old Niskayuna Road, Latham, NY 12110. Include a copy of the completed DMNA 1057 without enclosures, attachments, or classified information with the check when mailed. Reduction authority pertaining to AGR personnel is not delegated and rests with The Adjutant General. See table 4-1, DMNA 27-2 for maximum punishments for enlisted members. See DMNA 27-2, Section V, Chapter 4, paragraph k for reduction of offenders in grades E-8 and E-9. Only one of the authorized punishments in NYSML, Section 130.15, may be imposed for each NJP action (example, a reduction cannot be combined with a fine). The punishments of confinement, extra duties, or reduction may not be imposed non-judicially on officers or warrant officers. An executed punishment of reduction or fine may be suspended only for a period of four (4) months after the date imposed.

7/ If the individual appeals, this form and attached sheets should be transmitted immediately to the next superior authority. All witness statements, official records and other documentary evidence considered by the commander imposing punishment also should be transmitted.

8/ Before acting on an appeal, it must be referred to a judge advocate for advice when punishment and legal review.

9/ In this space, provide a brief list of attachments. Such attachments should include all witness statements, all documentary and other evidence, all statements presented by the accused, any evidence or statements presented on appeal, and copies of any supplementary actions on the punishment that are taken. The list of supplementary actions should indicate the date of the action and provide a brief description of its nature. Supplementary actions include each action in suspension, mitigation, remission, or setting aside of punishment, or vacation of suspension. Attachments of such supplementary actions must include the date of the action and the name, grade and position of the officer taking it. The officer taking each action, or his authorized representative, will sign below the description of the action. When a representative signs such a supplementary action, he/she will state his/her own name, grade and position in addition to those of the commander. Distribution of supplementary actions should be made as in the original action. If additional space is needed for completion of any item(s), continuation should be accomplished and listed herein 10/ Applicable portions of the following suggested formats may be used to accomplish supplementary actions: (Appropriate language should be entered in Part III or, if necessary, on continuation sheet):

a. Suspension, Mitigation, Remission or Setting Aside Other than by Superior Acting on Appeal:

On (date), the punishment(s) of _____, imposed on (date of punishment(s) against _____ (name of offender) (unit) (was) (were) suspended (only for a period of (4) months after the date imposed) and will be automatically remitted if not vacated before (date) (mitigated to) (set aside, and all rights, privileges and property affected restored) (by my order) (by order of) (the officer who imposed the punishment) (the successor-in-command to the officer who imposed the punishment) (as superior authority). (Typed name, grade and position) /s/

b. Vacation of Suspension:

The suspension of the punishment(s) of _____, imposed on date of punishment(s) against _____ (name of offender) (unit) and vacated before (date), (is) (are) hereby vacated. The unexecuted portion(s) of the punishment(s) will be duly executed. (Typed name, grade and position) /s/